

4 June 1947

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ARIZONA ATTORNEY GENERAL

Mr. Nolan D. Pulliam,
Superintendent of Public Instruction,
Capitol Building,
Phoenix, Arizona.

Dear Mr. Pulliam:

In your letter of April 2, 1947, you submit for opinion the following questions:

"Will you give this office an opinion on just who is eligible to vote at a school district bond election?"

"If a person has purchased real property under contract and pays taxes on it or if a veteran or a widow, and is exempt from paying taxes on the property, would the individual be a qualified elector at a school bond election?"

I

As to the question concerning eligibility of a voter at a school bond election, the answer is found in several applicable statutes. Section 54-419, A.C.A. 1939, on the subject of special elections on bond issues provides as follows:

"Special elections on bond issues and school property.- The board of trustees of any school district may, and upon petition of fifteen (15) per cent of the school electors, as shown by the poll list at the last preceding annual school election, must call an election for the following purposes: To locate or change the location of school houses; to purchase or sell school sites or houses, or the building of school houses; to decide whether the bonds of the district shall be issued and sold for the purpose of raising money for purchasing or leasing school lots, for building school houses, and supplying same with furniture and apparatus and improving grounds, or for liquidating any indebtedness already incurred for such purposes.

When the election is called to decide upon the locating or relocating of school building, or the purchase or sale of school sites or school buildings, the

election shall be called and conducted as regular school elections, except as to the time of holding the election, and the board of trustees shall be governed by the vote of the majority on all questions submitted. When the election is called to determine whether or not the bonds of the district shall be issued and sold for the purposes enumerated in the call for the election, the question shall be submitted to the vote of the qualified electors of the district." (Underlining ours.)

Section 54-519 must, however, be interpreted in the light of the following controlling language of the Constitution, Section 13 of Article 7, which provides:

"Questions upon bond issues or special assessments shall be submitted to the vote of real property taxpayers, who shall also in all respects be qualified electors of this state, and of the political subdivision thereof affected by such question".

The statute expressly requires, of course, that the voter at a school bond election be a "qualified elector of the district". That this means school elector is evident from a reading of the first part of the section which states that the bond election may be called "upon petition of fifteen per cent (15%) of the school electors". By reference to Section 54-414, which deals with the qualifications of school electors, it will be noted that to be such elector the person must have been a resident of the district thirty days immediately preceding the day of election.

To summarize; a person is qualified to vote at a school bond election, who is a qualified elector of the State, a resident of the district concerned, and a real property taxpayer on property located therein.

II.

You further ask if a person who has purchased real property under contract and pays taxes on it is thereby qualified. Under definition of "owner" for purposes of annexation of property to a city, it was held in the case of City of Phoenix v. State, 53 Ariz. 8, 117 Pac. (2d) 87, that such purchaser has a sufficient interest in order to qualify as a signer of an annexation petition. In our opinion a purchaser for the same reason could qualify as an elector in a school bond election, since he bears the responsibilities until the retirement of the debt in proportion to his equity in property.

III

As a final query you ask whether a veteran or widow who is exempt from paying taxes on his or her property is qualified. An analogous question arose in *City of Phoenix v. State*, supra. In a case in quo warranto the issue involved the sufficiency of a petition for annexation in view of the fact that among the signers were soldier owners of tax-exempt property. After indicating that at all costs the veteran's property is placed on the assessment roll and made subject to a tax lien, the court decided that, whether or not exemption was claimed, such owners may sign the petition for annexation. At this point the court stated as follows:

"Inasmuch as a widow's or soldier's property must be placed on the tax rolls and when their assessment exceeds \$2,000 none of the excess is exempt, and in case the total assessment is \$5,000, or over, not even the \$2,000 is, it is our view that they may sign the petition, for widows and soldiers must be treated as a class in determining their right to sign, and since some of them have only a partial exemption, others none at all, we think they may all sign".

It is thus the holding of our Supreme Court that soldiers and widows, potential claimants of exemption, must be treated as a class, inasmuch as they may be required to bear the burden of taxation consequent upon annexation, regardless of their statutory rights. This, in our opinion, is clear authority for their being regarded as taxpayers within the meaning of Article 7, Section 13, Arizona Constitution, and Section 54-419. They are, therefore, qualified to vote at school bond elections.

Hoping this answers your inquiries, we remain,

Very truly yours,

JOHN L. SULLIVAN,
Attorney General

WILLIAM P. MAHONEY, Jr.,
Assistant Attorney General

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